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Cory Cutshall v. Keith Rockwell, Dave Kuker Trucking LLC

Case Number	10D06-2209-CT-000149
Court	Clark Superior Court 6
Type	CT - Civil Tort
Filed	09/29/2022
Status	09/29/2022 , Pending (active)

Parties to the Case

Defendant Rockwell, Keith

Address

910 Minnesota Street
Satsuma, FL 32189

Attorney

Christopher R Whitten
#2042949, Lead, Retained

WHITTEN LAW OFFICE LLC
6801 Gray Road, Suite H
Indianapolis, IN 46237
317-362-0225(W)

Attorney

James Lee Culp
#2632649, Retained

WHITTEN LAW OFFICE LLC
6801 Gray Road, Suite H
Indianapolis, IN 46237
317-362-0225(W)

Defendant Dave Kuker Trucking LLC

Address

David J. Kuker
106 27th Street
Spirit Lake, IA 51360

Attorney

Christopher R Whitten
#2042949, Lead, Retained

WHITTEN LAW OFFICE LLC
6801 Gray Road, Suite H
Indianapolis, IN 46237
317-362-0225(W)

Attorney

James Lee Culp
#2632649, Retained

WHITTEN LAW OFFICE LLC
6801 Gray Road, Suite H
Indianapolis, IN 46237
317-362-0225(W)

Plaintiff Cutshall, Cory

Attorney

John Lewis Smith
#2692131, Retained

Morgan & Morgan
426 Bank Street, Suite 300
New Albany, IN 47150
812-850-6850(W)

Chronological Case Summary

09/29/2022 **Case Opened as a New Filing**

09/29/2022 **Complaint/Equivalent Pleading Filed**

Complaint and Demand for Jury Trial

Filed By: Cutshall, Cory

File Stamp: 09/29/2022

09/29/2022 **Appearance Filed**

Appearance -John L. Smith

For Party: Cutshall, Cory

File Stamp: 09/29/2022

09/29/2022 **Subpoena/Summons Filed**

Summons -Keith Rockwell

Filed By: Cutshall, Cory

File Stamp: 09/29/2022

09/29/2022 Subpoena/Summons Filed

Summons -David J. Kuker

Filed By: Cutshall, Cory

File Stamp: 09/29/2022

09/29/2022 Jury Trial Demand Filed

Filed By: Smith, John Lewis

File Stamp: 09/29/2022

10/25/2022 Appearance Filed

Appearance -Christopher R. Whitten and James L. Culp

For Party: Rockwell, Keith

For Party: Dave Kuker Trucking LLC

File Stamp: 10/25/2022

10/25/2022 Motion for Enlargement of Time Filed

Motion for Enlargement of Time

Filed By: Rockwell, Keith

Filed By: Dave Kuker Trucking LLC

File Stamp: 10/25/2022

10/25/2022 Order Granting Motion for Enlargement of Time

ORDER ON DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME entered. Motion granted; time enlarged to 12/19/2022.

Judicial Officer: Williams, Kyle P.

Movant: Rockwell, Keith

Movant: Dave Kuker Trucking LLC

Order Signed: 10/25/2022

10/26/2022 Automated ENotice Issued to Parties

Order Granting Motion for Enlargement of Time ---- 10/25/2022 : Christopher R Whitten;James Lee Culp;John Lewis Smith

Financial Information

* Financial Balances reflected are current representations of transactions processed by the Clerk's Office. Please note that any balance due does not reflect interest that has accrued – if applicable – since the last payment. For questions/concerns regarding balances shown, please contact the Clerk's Office.

Cutshall, Cory

Plaintiff

Balance Due (as of 10/27/2022)

0.00

Charge Summary

Description	Amount	Credit	Payment
Court Costs and Filing Fees	157.00	0.00	157.00

Transaction Summary

Date	Description	Amount
09/29/2022	Transaction Assessment	157.00
09/29/2022	Electronic Payment	(157.00)

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IN THE CIRCUIT COURT OF CLARK COUNTY
STATE OF INDIANA

CORY CUTSHALL

Plaintiff

CASE NO. _____

v.

KEITH ROCKWELL

and

DAVE KUKER TRUCKING LLC

Defendants

COMPLAINT AND DEMAND FOR JURY TRIAL

Comes the Plaintiff, Cory Cutshall, by and through counsel, John L. Smith, and for his cause of action against the Defendants Keith Rockwell and Dave Kuker Trucking LLC hereby states as follows:

1. At all relevant times, the Plaintiff was a resident of Scott County, State of Indiana.
2. At all relevant times, the Defendant, Keith Rockwell, was a resident of Satsuma, State of Florida, and acting within the course and scope of his employment with Defendant, Dave Kuker Trucking LLC
3. At all relevant times, the Defendant, Dave Kuker Trucking LLC, was a corporation authorized to do business and is doing business in Clark County, State of Indiana and employed Defendant Keith Rockwell.

4. The events described herein occurred in Clark County, State of Indiana, and this Court has proper venue in this action.

COUNT I

5. On or about August 27, 2022, the Defendant, Keith Rockwell, was negligent in the operation, maintenance, and control of a 2020 Peterbilt 567 when he struck the motorcycle the Plaintiff was riding.

6. Cory Cutshall was traveling West on Memphis Bluelick Road in Memphis, Clark County, Indiana when the Defendant Keith Rockwell, failed to keep a proper lookout and failed to properly control his vehicle, when he attempted to turn in front of Cory Cutshall's motorcycle and hit him head on.

7. As a direct and proximate result of the negligent acts and conduct of Defendant, Keith Rockwell, Plaintiff has sustained serious bodily injury; all damages in excess of the minimal amount necessary to confer jurisdiction upon this Court.

8. The negligence of Defendant, Keith Rockwell, in the use of a motor vehicle and/or his acts and/or omissions being otherwise negligent are the direct and proximate cause of all the damages suffered by the Plaintiff or are a substantial cause in causing same.

COUNT II

9. On or about the aforementioned date, the Defendant, Dave Kuker Trucking LLC was the owner of the vehicle driven by Defendant Rockwell that was involved in the subject collision.

10. At all times relevant, Defendant Rockwell was employed by, and acting within the scope of his employment as an employee for Defendant Dave Kuker Trucking

LLC or one of its agents, subsidiaries, distributorships, or owned businesses or companies, or corporations, and thereby causing the aforementioned Defendant Dave Kuker Trucking LLC to be either directly or vicariously liable for the injuries caused to Plaintiff.

11. As a direct and proximate result of the acts and conduct of Defendant, Dave Kuker Trucking LLC, Plaintiff has sustained serious bodily injury; all damages in excess of the minimal amount necessary to confer jurisdiction upon this Court.

12. The negligence of Defendant Dave Kuker Trucking LLC or one of its employees acting within the scope of their employment, agents, subsidiaries, owned business, companies, or corporations in their driving operations and/or their acts and/or omissions being otherwise negligent are the direct and proximate cause of all damages suffered by Plaintiff or are a substantial cause in causing the same.

WHEREFORE, Plaintiff, Cory Cutshall, demands relief against Defendants Keith Rockwell and Dave Kuker Trucking LLC as follows:

1. Judgment against the Defendants for compensatory damages in an amount in excess of the amount necessary to invoke the jurisdiction of this court and reasonably calculated to compensate Plaintiff for his damages, to include the following:
 - a. Past and future medical expenses;
 - b. Past and future physical and mental pain and suffering, to include inconvenience;
2. Costs herein expended;
3. **Trial by jury;**

4. Any and all interest to which the Plaintiff may be adjudicated to be entitled to from the date of filing this action; until paid; and
5. Any and all other appropriate relief to which the Plaintiff may appear to be justly entitled.

Respectfully submitted,

/s/ John L. Smith

John L. Smith #26921-31
Morgan & Morgan
426 Bank Street Suite 300
New Albany, IN 47150
812.850.6850 (t)
812.941.4026 (f)
Counsel for Plaintiff

Comes now the Plaintiff, Cory Cutshall, and demands a trial by jury on all issues so triable.

/s/ John L. Smith

John L. Smith #26921-31

IN THE CIRCUIT COURT OF CLARK COUNTY
STATE OF INDIANA

CORY CUTSHALL

Plaintiff

CASE NO. _____

v.

KEITH ROCKWELL

and

DAVE KUKER TRUCKING LLC

Defendants

APPEARANCE BY ATTORNEY IN CIVIL CASE

This Appearance Form must be filed on behalf of every party in a civil case.

1. The party on whose behalf this form is being filed is:
Initiating ☒ Responding _____ Intervening _____; and

the undersigned attorney and all attorneys listed on this form now appear in this case for the following parties:

Name of party Cory Cutshall, Plaintiff

Address of party (see Question # 6 below if this case involves a protection from abuse order, a workplace violence restraining order, or a no-contact order)

Telephone # of party _____

FAX: _____

Email Address: _____

(List on a continuation page additional parties this attorney represents in this case.)

2. Attorney information for service as required by Trial Rule 5(B)(2)

Name: John L. Smith Atty Number: #26921-31

Address: Morgan & Morgan, 426 Bank Street Suite 300, New Albany, IN 47150

Phone: (812) 850-6850

FAX: (812) 941-4026

Email Address: johnsmith@forthepeople.com

(List on continuation page additional attorneys appearing for above party)

3. This is a CT case type as defined in administrative Rule 8(B)(3).
4. I will accept service from other parties by:
FAX at the above noted number: Yes ____ No X
Email at the above noted number: Yes ____ No X
5. This case involves child support issues. Yes ____ No X *(If yes, supply social security numbers for all family members on a separately attached document filed as confidential information on **light green paper**. Use Form TCM-TR3.1-4.)*
6. This case involves a protection from abuse order, a workplace violence restraining order, or a no – contact order. Yes ____ No X *(If Yes, the initiating party must provide an address for the purpose of legal service but that address should not be one that exposes the whereabouts of a petitioner.)* The party shall use the following address for purposes of legal service:

_____ Attorney's address
_____ The Attorney General Confidentiality program address
(contact the Attorney General at 1-800-321-1907 or e-mail
address is **confidential@atg.in.gov**).
_____ Another address (provide)

7. This case involves a petition for involuntary commitment. Yes ____ No X
8. If Yes above, provide the following regarding the individual subject to the petition for involuntary commitment:
- a. Name of the individual subject to the petition for involuntary commitment if it is not already provided in #1 above:

- b. State of Residence of person subject to petition: _____

c. At least one of the following pieces of identifying information:

- (i) Date of Birth _____
- (ii) Driver's License Number _____
State where issued _____ Expiration date _____
- (iii) State ID number _____
State where issued _____ Expiration date _____
- (iv) FBI number _____
- (v) Indiana Department of Corrections Number

- (vi) Social Security Number is available and is being provided in an
attached confidential document Yes ____ No ____

9. There are related cases: Yes ____ No X (If yes, list on continuation page.)

10. Additional information required by local rule:

11. There are other party members: Yes ____ No X (If yes, list on continuation page.)

12. This form has been served on all other parties and Certificate of Service is attached:

Yes ____ No X

s/ John L. Smith

John L. Smith 26921-31

Morgan & Morgan

426 Bank Street Suite 300

New Albany, IN 47150

812-850-6850 (t)

812-941-4026 (f)

johnsmith@forthepeople.com

Counsel for Plaintiff

IN THE CIRCUIT COURT OF CLARK COUNTY
STATE OF INDIANA

CORY CUTSHALL

Plaintiff

CASE NO. _____

v.

KEITH ROCKWELL

and

DAVE KUKER TRUCKING LLC

Defendants

SUMMONS

THE STATE OF INDIANA TO: David J. Kuker
106 27th Street
Spirit Lake, IA 51360

You have been sued by the Plaintiff in the Court stated above.

The nature of the suit against you is stated in the complaint, which is attached to this summons. It also states the demand, which the Plaintiff has made against you.

You or your attorney must answer the petition in writing and your written answer must be filed with the Court within twenty (20) days after you receive this summons or within twenty-three (23) days if you received this summons by mail, or a judgment will be entered against you for what the Plaintiff has demanded in the attached petition.

If you deny the demand, or if you have a claim against the Plaintiff, you must assert it in your written answer.

It is suggested that you immediately consult an attorney of your choice regarding this matter.

The following manner of service of summons is hereby designated:

CERTIFIED MAIL

Dated: 9/29/2022
_____, 2022


CLERK, CLARK CIRCUIT COURT



IN THE CIRCUIT COURT OF CLARK COUNTY
STATE OF INDIANA

CORY CUTSHALL

Plaintiff

CASE NO. _____

v.

KEITH ROCKWELL

and

DAVE KUKER TRUCKING LLC

Defendants

SUMMONS

THE STATE OF INDIANA TO: Keith Rockwell
910 Minnesota Street
Satsuma, FL 32189

You have been sued by the Plaintiff in the Court stated above.

The nature of the suit against you is stated in the complaint, which is attached to this summons. It also states the demand, which the Plaintiff has made against you.

You or your attorney must answer the petition in writing and your written answer must be filed with the Court within twenty (20) days after you receive this summons or within twenty-three (23) days if you received this summons by mail, or a judgment will be entered against you for what the Plaintiff has demanded in the attached petition.

If you deny the demand, or if you have a claim against the Plaintiff, you must assert it in your written answer.

It is suggested that you immediately consult an attorney of your choice regarding this matter.

The following manner of service of summons is hereby designated:

9/29/2022
Dated: _____, 2022

CERTIFIED MAIL


CLERK, CLARK CIRCUIT COURT



STATE OF INDIANA)	IN THE CLARK SUPERIOR COURT 6
) SS:	
COUNTY OF CLARK)	CAUSE NO. 10D06-2209-CT-000149
CORY CUTSHALL,)	
)	
Plaintiff,)	
)	
v.)	
)	
KEITH ROCKWELL and)	
DAVE KUKER TRUCKING LLC)	
)	
Defendants.)	

APPEARANCE BY ATTORNEY IN CIVIL CASE

Party Classification: **Defendants**

1. The undersigned attorney and all attorneys listed on this form now appear in this case for the following party member(s):

Keith Rockwell and Dave Kuker Trucking LLC

2. Applicable attorney information for service as required by Trial Rule 5(B)(2) and for case information as required by Trial Rules 3.1 and 77(B) is as follows:

Christopher R. Whitten, Attorney No. 20429-49
 James L. Culp, Attorney No. 26326-49
 WHITTEN LAW OFFICE LLC
 6801 Gray Road, Suite H
 Indianapolis, IN 46237
 (317) 362-0225 Telephone
 (317) 362-0151 Facsimile
cwhitten@indycounsel.com
jculp@indycounsel.com

3. There are other party members: No.

4. If first initiating party filing this case, the Clerk is required to assign this case the following Case Type under Administrative Rule 8(b)(3): N/A.

5. I will accept service by FAX at the above noted number: No.

6. This case involves support issues. No. (If yes, supply social security number for all family members).

7. There are related cases: No.

8. This form has been served on all other parties. Certificate of Service is attached: Yes.

9. Additional information required by local rule: N/A.

Respectfully submitted,

WHITTEN LAW OFFICE LLC



Christopher R. Whitten/#20429-49



James L. Culp/#26326-49
Counsel for Defendants

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing has been served upon the following by electronic mail on the 25th day of October 2022.

John L. Smith, Esq.
MORGAN & MORGAN
426 Bank Street, Suite 300
New Albany, IN 47150
johnsmith@forthepeople.com
Counsel for Plaintiff



James L. Culp

WHITTEN LAW OFFICE LLC
6801 Gray Road, Suite H
Indianapolis, IN 46237
PH: 317/362-0225
FX: 317/362-0151
cwhitten@indycounsel.com
jculp@indycounsel.com

STATE OF INDIANA)	IN THE CLARK SUPERIOR COURT 6
) SS:	
COUNTY OF CLARK)	CAUSE NO. 10D06-2209-CT-000149
CORY CUTSHALL,)	
)	
Plaintiff,)	
)	
v.)	
)	
KEITH ROCKWELL and)	
DAVE KUKER TRUCKING LLC)	
)	
Defendants.)	

MOTION FOR ENLARGEMENT OF TIME

Defendants, Keith Rockwell and Dave Kuker Trucking, LLC, by counsel, respectfully request the Court for an enlargement of time of 30 days to respond to the Complaint ("Complaint") of Plaintiff, Cory Cutshall, and in support thereof, state as follows:

1. On or about October 25, 2022, Defendant Keith Rockwell was served with a copy of the Summons and Complaint.
2. On or about October 25, 2022, Defendant Dave Kuker Trucking, LLC was served with a copy of the Summons and Complaint.
3. The time for Defendants to respond to Plaintiff's Complaint has not yet expired.
4. Counsel for Defendants requires additional time to confer with his clients and to prepare an appropriate response to the Complaint.
5. No prior enlargement of time has been requested or obtained.

WHEREFORE, Defendants, Keith Rockwell and Dave Kuker Trucking LLC by counsel, respectfully request the Court for an enlargement of time of 30 days

up to and including December 19, 2022, in which to respond to the Complaint and for all other just and proper relief.

Respectfully submitted,

WHITTEN LAW OFFICE LLC



Christopher R. Whitten/#20429-49

James L. Culp/#26326-49

Counsel for Defendants

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing has been served upon the following by electronic mail on the 25th day of October 2022.

John L. Smith, Esq.
MORGAN & MORGAN
426 Bank Street, Suite 300
New Albany, IN 47150
johnsmith@forthepeople.com
Counsel for Plaintiff



James L. Culp

WHITTEN LAW OFFICE LLC
6801 Gray Road, Suite H
Indianapolis, IN 46237
PH: 317/362-0225
FX: 317/362-0151
cwhitten@indycounsel.com
jculp@indycounsel.com

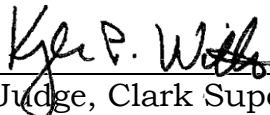
STATE OF INDIANA)	IN THE CLARK SUPERIOR COURT 6
) SS:	
COUNTY OF CLARK)	CAUSE NO. 10D06-2209-CT-000149
 CORY CUTSHALL,)	
)	
Plaintiff,)	
)	
v.)	
)	
KEITH ROCKWELL and)	
DAVE KUKER TRUCKING LLC)	
)	
Defendants.)	

ORDER ON DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME

This matter came before the Court on Defendants' Motion for Enlargement of Time to Answer Complaint. The Court having been first duly advised, now **GRANTS** the Motion.

IT IS THEREFORE ORDERED that Defendants Keith Rockwell and Dave Kuker Trucking LLC, shall have up to and including December 19, 2022, in which to respond to Plaintiff's Complaint.

So ORDERED 10/25/2022



Judge, Clark Superior Court 6

Copies to:

John L. Smith, Esq.
MORGAN & MORGAN
426 Bank Street, Suite 300
New Albany, IN 47150

Christopher R. Whitten, Esq.
James L. Culp, Esq.
WHITTEN LAW OFFICE LLC
6801 Gray Road, Suite H
Indianapolis, IN 46237